IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

CRL.A.No. 182 of 2000

ST.1657/1997 of JUDL. FIRST CLASS MAGISTRATE'S COURT, IRINJALAKUDA

.....

APPELLANT/COMPLAINANT:

DASAN, S/O. PONATHIL SANKARAN, PONJANAM,
KATTUR, THRISSUR DISTRICT.

BY ADV. SRI.K.G.BALASUBRAMANIAN

RESPONDENT/ACCUSED:

C.K.SRIRAMAN, S.I. OF POLICE,
KATTUR, THRISSUR DISTRICT.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl. Appeal No.182 of 2000

Dated this the 21st day of February, 2007

Judgment

The appellant filed a private complaint alleging commission of offences under sections 341, 342, 323, 506 (ii) and 201 of the Indian Penal Code. Charge was framed on 12.8.1997. Thereafter, the case was posted to 20.2.1998, 19.5.1998, 6.8.1998 and 12.8.1998. Thereafter, the trial court granted a long adjournment and it was noted by the advocate as 16.6.1999, but, the case was called on 8.6.1999 and because of the absence of the complainant, accused was acquitted under section 256 of the Code of Criminal Procedure. Only because of the mistaken noting of the posting of the case, the complainant was absent on 8.6.1999 and complainant was present on all the previous posting dates. Even though accused can be acquitted under section 256 (1) Cr. P.C. for the absence of the complainant, it should not be done mechanically. On the facts of the case, I am of the opinion that the matter should be remanded to the court below.

2. Notice sent by this court was not returned after service. At the time of issuance of notice, respondent was Sub Inspector of Police, Kattur. Notice was issued through the Circle Inspector of Police. Even if he

was transferred, Circle Inspector of Police could have served it at the transferred place. This is only an adjustment by the police and I am of the view that he was evading notice. In any event, I am not making any direction on the merits of the case. Appellant should take fresh steps against the respondent. Complainant shall appear before the court below on 29.3.2007. Appeal allowed by way or remand.

J.B. KOSHY
(JUDGE)

vaa

J.B.Koshy, J.

Crl. A. No.182 of 2000

Judgment

21-2-2007